

PRESENT: Brenda Colberg-DiMarco Chairperson, Terrance Wansley, Tanmay Gajjar, and Margo Miller

CONTENT: American Society for the Prevention of Cruelty to Animals (Area Variance), Elazar Demeshulan, Lisa Shichrur (Area Variance), and Minutes.

Chairperson Colberg-DiMarco opened the meeting at 7:04 p.m. and then led the salute to the flag

American Society for the Prevention of Animal Cruelty

Area Variance 2020-005

Intersection of NYS Route 22 & Route 55

Pawling, NY 125664

Grid Number: 134089-7056-00-257503

134089-7056-00-110487

Mr. Rick O'Rourke Esq., from the firm of Keane and Beane, Mr. James Caris AICP from JMC Planning Engineering, Landscape Architecture & Land Surveying PLLC, Robert Hesselback AIA, Kristen Collins, Vice President ASPCA Rehabilitation Services. Beverly Jones, Vice President ASPCA Chief Fiscal Officer, and Katleen Comsbbe from Cerami Company were present.

Chairperson Colberg-DiMarco said the property is located at the intersection of NYS Route 22 and Route 55 in the Mixed Business Industry (MBI) Zoning District. Chairperson Colberg-DiMarco read the response from Dutchess County Planning, which indicated this application is 239 GML exempt from review. A site inspection was scheduled for August 20, 2020, where there was a problem with accessing the site, and the members in attendance were Chairperson Colberg-DiMarco, Terrance Wansley, Tanmay Gajjar, and Margo Miller.

Mr. Caris explained he had gotten to the site before the Board members; some trees and limbs had fallen after the storm on the drive going into the parcel. He drove in to clear the roadway, and the Board did not know he was in attendance at the building site location. He apologized to the Board members for the confusion and then offered to reschedule the site inspection.

Chairperson Colberg- DiMarco said the Planning Board is handling the Seqra determination; therefore, the Zoning Board of Appeals shall open the "Public Hearing" this evening and keep the "Public Hearing" opened until the Planning Board has made a SEQRA declaration.

Mrs. Muller read into the records the ASPCA area variance from Code section, §215-18(B) "Work spaces, runs, pens or other facilities shall be located within a completely enclosed soundproof building: and such hospital or kennel shall be operated in such a manner as to produce no objectable noise, orders or other nuisances beyond the boundaries of the site on which it is located. Such facility shall assure a buffer zone sufficient to prevent increase in average preexisting background noise levels on the site".

Mr. O'Rourke said the ASPCA is before the Board tonight from an appeal made by the Code Enforcement Officer in a letter dated April 10, 2019. He introduces the ASPCA team on the zoom meeting this evening.

Mr. Caris began the ASPCA presentation, which included illustrated maps of the site as follows,

- Aerial view location and size of the two parcels.
- Aerial view of the site plan.

- Aerial view of the stormwater management area, parking spaces with 106 spaces, proposed building footprint, outdoor fenced play areas, the building will have green rooftops, not shown, loading area and parking spaces, 360-degree vehicle access, and landscape buffers.
- Recovery and Rehabilitation center, green rooftops, main entrance, and parking area. Western Perspective view
- Recovery and Rehabilitation center, ground-level view, western ground-level elevation view.
- Recovery and Rehabilitation center, green rooftops, fenced-in play area, loading area. Eastern elevation perspective view
- Grading plan
- Existing grading proposed grading and site section view.
- Aerial view with green landscape buffers.

The proposed project is to be developed with a state of the art facility sensitive to the surrounding neighborhood and environment. The facility proposed is a 42,560 square foot Recovery and Rehabilitation Center for dogs to be operated by ASPCA. The two parcels combined consist of 84.42+ acres. The west parcel (110487) is 48.08 + acres, and the east parcel (257503) is 36.34+ acres separated by a 200-foot wide NYSEG cross easement in favor of the subject properties. The access proposed is via a new curb cut on NYS Route 55, aligned with the existing Cedar Valley intersection. The proposed development will include associated parking, landscaping, and utility infrastructure to support the facility to house up to 88 dogs. A noise impact study was performed by Cerami Company. Furthermore, the ASPCA plans are to construct a one-story building measuring fifteen (15) feet in height with a green rooftop. He explained the drawings indicate site grade in the building footprint ranging from +692.0 to +670.0, finished first-floor range, and +678.0 to +674.0 middle finished floor and + 674.0 front of the building. The building is stepping down across the property.

Mrs. Miller questioned what does the cut out from the facility to NYS Route 22 section represents on the Site Plan.

Mr. Caris responded that the presented cut out section is for future electric and utility trenches.

Mr. O'Rourke said the Mixed Business Zone allows for a three story building. It is noteworthy that the ASPCA is proposing a 42,560 square foot building that will occupy 1% of the 3,677,355.20 square feet of the property (84.42 acres x 43,560 square feet =3,677, 355.20 square feet). As a use permitted by Special Permit as a Multi -Use Center, the property may be developed with a maximum building coverage of 30%. Thus the sheet size of the property provides an enormous buffer for a structure occupying only 1% of the property, when considering the maximum coverage permitted on the property. The applicants have taken into consideration the recommendation of acoustical experts (Ceramic Company) to implement no undesirable noise impact change to the neighborhood. Additionally, 56% of property will be left as vegetative landscape.

Chairperson Colberg-DiMarco asked if the access drive to the facility traverses in a 360 degree circular drive around the facility.

Mr. Caris responded, yes. The ASPCA proposes one access road into the facility, which traverses 360 degrees circular around the facility.

Ms. Collins said the dogs will arrive at the ASPCA Recovery and Rehabilitation Center after first being medically and behaviorally examined at the ASPCA Animal Hospital in Manhattan. Once they recover from the most severe medical conditions, they will be transferred to the Center, where their behavioral and medical recovery will continue. The state of the art facility will be designed, built, and maintained according to best practices to ensure both security and cleanliness for the animals and people. Behavior intervention is an important component to address hyperarousal, anxiety, and inappropriate behavior. Many of these dogs come from abused or cruel environments, never been

outside, and will be introduced to the outside environment. Robust daily enrichment and exercise programs reduce stress and promote behavioral wellbeing that prevents ongoing bad behavior. Part of the shelter programs is to address sociology enrichment areas to intervene for successful future adoptions. The outdoor activities are an essential element of providing animal victims of cruelty and neglect with an environment that returns a dog's physical and behavioral health. Without such activities, this program would not occur. All these factors assist the dogs in recovering. In North Carolina, a program addressing the dog's needs has been ongoing for two years, with tremendous success. The community in North Carolina had initial concerns, subsequently, the facility has been a part of the community with people volunteering and successful rehabilitations. No dogs are adopted directly from this facility.

Mr. Wansley asked if any ASPCA facilities do not have outside runs or play areas for dogs.

Ms. Collins responded yes, and no. In New York City, the facility has inside runs due to a city environment versus a country facility. The city facility has limitations on rehabilitating dogs. Many of these dogs have never been outside or lived in a positive environment. The ASPCA facility program is a lifesaving rehabilitation and recovery center for these dogs.

Mr. O'Rourke said NYC is not a behavioral rehabilitation hospital, as will be the ASPCA proposed in Pawling, NY. Furthermore, the dogs at the Pawling facility would never be allowed outside alone; they are kept on leashes by trained individuals.

Chairperson Colberg DiMarco asked if the proposed landscape buffers are to mitigate the noise levels from the dogs. She explained that the Ceramic Company has a highly regarded reputation and their participation in this project was necessary for the wellbeing of many residents and pets.

Mr. O'Rourke said the noise study complies with the Code of the Town of Pawling Performance Standards ordinance. Ms. Combs from Ceramic Company will go over the noise study report with the Board and then answer any questions.

Mr. Kathleen Ooms said their review was completed for the project noise impact from the proposed ASPCA facility operations to the adjacent residential areas. We understand that animals will use outside areas. Since the residents located to the North and East have major roads between them and the proposed facility, they considered the southern most residents to be the most sensitive to animal noise. By approximating the maximum noise levels that will be produced by animal noise at the facility, they completed an assessment to determine the extent of the mitigation required to achieve compliance pursuant to the Code of the Town of Pawling, Performance Standard ordinance. Outdoor activities with the dogs will be scheduled during regular hours of operations between 7:30 a.m. and 6:00 p.m. The outside activities will consist of three components, leash walks, playgroups, and individual dog pens. They are proposing the animal noise projected is towards the nearest residence to the south of the property, 37 Fenwood Drive. There is a significant change in elevation around the ASPCA property and the residential properties, so the topography was analyzed as well. Based on elevations, the existing conditions provide a natural barrier between the ASPCA facility and 41 Fenwood Drive. The estimated highest elevation of 700' is sufficient to block noise from 37 Fenwood Drive, and the topography is expected to reduce noise levels at least 10db below maximum allowed levels. The levels are expected to approach inaudible sound most of the time based on ambient measurements. As the elevation decreases to the East, the natural barrier effect is reduced. Where the elevation changes to 690', there is about a 5-10db increase in predicted noise levels from the near training areas and the dog walks. While still below the maximum noise levels, animal noise approaching ambient may result in inaudible barks. They noted that the calculations are still conservative, using multiple animals barking at once at very high levels. It is very unlikely that most animal noise is significantly lower. To provide further coverage, we recommended that a portion of the 690' elevation are provided with earth berms to raise the elevation to 700'. We estimate the additional elevation would minimize animal noise from approaching inaudibility. With the effective measures in place and consideration taken for time of day in

which dog activities are to occur, the animal noise should comply with the noise ordinance stipulations in Section 2.0. It should not be objectionable to nearby neighbors.

Mrs. Miller asked if the mitigation measures do not work, what alternatives could be put in place to block dog noise?

Mr. Kathleen Combsbe responded that the ASPCA has not maxed out options for mitigation measures for increased barriers implementing blocking out noise.

Mr. O'Rourke said if a complaint was filed with the Town, the ASPCA would immediately address any complaint. The ASPCA goal is to be a good neighbor within the community.

Mrs. Miller said an alternate plan should be proposed, in case any noise occurs. She felt this was best management practice approach to ensure the residential neighborhood is not disrupted.

Chairperson Colberg-DiMarco asked Mr. Liquori Esq., what are the ZBA's options to ensure noise mitigation is addressed with the neighbors in case future complaints are filed with the Town.

Mr. Liquori Esq., said the matter of the noise is an important component of the Planning Board's Site Plan approvals. The applicant has performed a noise study to commence dealing with the Code of the Town of Pawling noise standards. He suggested the ZBA based upon the granting of the area variance, request the Planning Board to review alternate mitigation measures for noise, if applicable, after the facility is constructed and running at capacity. Mr. Bolner from CPL has reviewed the noise study on behalf of the Planning Board. Mr. Liquori Esq., explained that he represents both the Planning and Zoning Board of Appeals for the Town of Pawling.

Chairperson Colberg-DiMarco said the Board's preference is to request a copy of Mr. Bolner memorandum on the Ceramic Company noise study prior to the September 28, 2020 meeting.

Mr. Liquori Esq., said Mr. Bolner has reviewed the noise study and has been before the Planning Board. The memorandum can be circulated to the ZBA.

Chairperson Colberg-DiMarco opened the meeting to the public.

Mr. Andy Conti from 8 West Wind Drive neighbor spoke. He has several questions for the Board and applicant. The first question is, what will be the lighting effect at night?

Mr. Caris responded that the ASPCA facility is not opened 24 hours per day. The facility is closed at night, using security lighting. The lights are to be placed on timers, meeting the Code of the Town of Pawling requirements for lighting. The wattage is proposed at zero candle watts spillage at the property line, with downward directed LED compliance light fixtures.

Mr. Conti asked what the proposed security lighting throughout the building is. Will the lighting illuminate the night sky? Besides the lighting question, he noticed that only certain wells were tested within in the neighborhood. Can the applicant explain why?

Mr. Caris said the lighting would be downward directed lighting. In July, the photometric plans were submitted to the Town's engineer for the Planning Board's review. Not all the wells in the neighborhood were tested. In April, exploratory well tests were performed with the Dutchess County Board of Health and well testing company. The test included a 72-hour well monitoring test on two properties 33 Fenwood Drive and 4 Fenwood Drive. The well company went door to door asking landowners if monitoring could be performed on their wells. He cannot speak to how Mr. Conti may or may not have been contacted by the well testing company.

Mr. Conti asked what was the drawdown test results on neighboring wells?

Mr. Caris responded there was no detectable draw down on the Fenwood Drive wells. The test was performed in April over a 72 hour period.

Mr. Conti said a neighbor's well on Fenwood Drive went dry. He does not know if the neighbor's well going dry is coincidental. He is only making a comment. Nonetheless, he feels a lot of water will be used by this facility.

Mr. Caris said the Dutchess County Board of Health reports were submitted to the Planning Board for the Town engineer's review. The facility shall use 3,000 to 4,000 gallons of water per day. It is not a very high water usage.

Mr. Conti asked if the proposed ASPCA is a veterinary hospital or only a boarding facility.

Mr. Caris responded the ASPCA is both a veterinarian hospital and boarding facility. The ASPCA facility shall cover the treatment of external and internal parasites, infections, such as respiratory, eye and ear, minor surgical procedures, post-operative recovery, physical therapy, radiography, dental procedures, spay/neuter surgery, behavioral and rehabilitation etc.

Mrs. Diane Farese, 37 Fenwood Drive neighbor, spoke. Her question is, can you provide the time period for the Ceramic Company completion of the noise study?

Ms. Combsbe responded that monitors were set up and test performed during December 2019.

Mrs. Farese explained that the timing from the well company was inappropriate as it was the beginning of the Covid -19 pandemic. She felt it was a strange time for people to show up at her door; therefore, their well was not tested. Additionally, they are the closest property to the ASPCA site, they have concerns there will be an echo from the noise on the upper portion of their two-story residence. There are concerns that noise will be heard on the second floor. Mrs. Farese said Mr. O'Rourke broke up (audio could not be heard) while reading the letter from the Town of Pawling Code Enforcement Officer dated April 2019, she asked if Mr. O'Rourke if he could reread the letter into the records.

Mr. O'Rourke reread the letter into the record.

Mrs. Miller asked if 56 % of open space includes the two parcels combined.

Mr. Caris responded yes, it is the total 84.42+ acres combined.

Mr. O'Rourke said the ASPCA is proposing a 42,560 square foot building that will occupy 1% of the 3,677,355.20 square feet of the property (84.42 acres x 43,560 square feet = 3,677, 355.20 square feet). As a use permitted by Special Permit as a Multi-Use Center, the property may be developed with a maximum building coverage of 30%. Thus the size of the property provides an enormous buffer for a structure occupying only 1% of the property when considering the maximum coverage permitted in a Mixed Business Industry Zoning District.

Mrs. Karen Drensk, 44 Fenwood Drive, said she appreciates the access entrance coming off of NYS Route 55. The alternative entrance would have been in front of her residence and she thanked the ASPCA for developing the access drive off of Route 55. She wanted to note that during the time the well company was seeking landowners to perform monitoring on wells, she found a note under the mat of her front door by accident. Additionally, she asked if there is a possibility of walking paths cut in around the neighborhood for the dog walks.

Mr. Caris said there are no future plans for walking paths along the south side of the neighborhood. The walking paths will be put in the forested areas between the site and NYS Route 22, and the northeastern section of the parcel. Dogs will be walked on a leash with a trainer.

Mr. Conti asked if the dogs would be allowed in outside fenced areas.

Mr. Caris said the outdoor play areas is chain linked fenced areas. The dogs are placed in played groups based on their size with dog trainers, for approximately 45 minutes per session.

Chairperson Colberg- DiMarco asked Mr. Liquori what is the ZBA's next step.

Mr. Liquori Esq. explained to the ZBA members that the "Public Hearing" will remain opened until September 28, 2020 meeting. All written comments will be accepted during the interim.

Mr. O'Rourke said the Board is in receipt of the written submission with exhibits from ASPCA. The document can answer any remaining questions the Board may have.

Chairperson Colberg- DiMarco said the ZBA "Public Hearing" will remain open until the September 28, 2020 meeting. The meeting agenda will be announced on the Town website. She thanked everyone for participating in the "Public Hearing" this evening and invited them back to the September 28, 2020 ZBA meeting.

ELAZAR DEMESHULAN

Area Variance

2020-004

Lisa Shichrur

69 South Quaker Hill Road

Pawling, NY 12564

Grid Number: 134089-7156-00-162014

Mr. Curt Johnson R.A. from the J. Group Designs LLC was present representing the applicants.

Chairperson Colberg-DiMarco said the property is located at 69 South Quaker Hill Road in a CD-5 Zoning District. Chairperson Colberg-DiMarco read the response from Dutchess County Planning, which indicated this application is 239 GML exempt from review. This application is a Type II action, according to SEQRA; therefore, no action is necessary by the Board. A site inspection was held on August 22, 2020, with Chairperson Colberg-DiMarco, Tanmay Gajjar, Terrance Wansley, and Margaux Miller.

Mr. Johnson said the small addition is to renovate the current attic served by a pull-down ladder stairs and is unsafe. The applicants propose to relocate the stairs access to the attic, which will eliminate one of the closets in the master bedroom. The renovation proposed is to construct a 6'6" x 12" addition to the side of the existing house to accommodate a closet for the Master bedroom. The existing corner of the house (master bedroom) is preexisting, non-conforming in terms of side yard setbacks. The dwelling runs parallel to the property line. During the site inspection, Mr. Wansley asked about the section of land title core on the plans. He explained that the gore is 10' of additional land with no ownership. The applicant based their side yard variance off of their property line.

Chairperson Colberg-DiMarco opened the meeting to the Public.

There were no comments from the audience.

Chairperson Colberg-DiMarco closed the meeting to the Public.

Chairperson Colberg-DiMarco said the Zoning Board of Appeals in making its determination shall take into consideration the five factors the Board must weigh against the detriment to the health, safety, and welfare of the neighborhood or community.

Mrs. Miller read the first factor, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance?

Mrs. Miller said the addition would enhance the character of the neighborhood.

The Board members concurred.

Mrs. Miller read the second factor, whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance?

Mrs. Miller said the property is 4.87+ acres, and the dwelling is tucked up into the corner of the parcel, resulting in no other feasible method other than granting of an area variance.

The Board members concurred.

Mrs. Miller read the third factor, is the variance substantial?

Mrs. Miller said the variance is not substantial.

The Board members concurred.

Mrs. Miller read the fourth factor, will there be an adverse effect or impact on physical or environmental conditions in the neighborhood or district?

Mrs. Miller said no adverse effect on the physical or environmental character of the neighborhood would occur.

Mrs. Miller read the fifth factor, whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance?

Mrs. Miller said the alleged difficulty is self-created due to the addition. Nonetheless, that does not preclude granting of an area variance.

Motion by Mrs. Miller to grant an area variance to Elazar Demeshulan, Lisa Shichrur located at 69 South Quaker Hill Road in the CD-5 Zoning District for a Side Yard Setback Area Variance, where a minimum of 40 is required, 30 feet is available and 10 feet was granted for a proposed addition.

215-33 (D) Conforming uses with dimensionally non-conforming building, a non-conforming building with a conforming use shall not be enlarged, reconstructed, or structurally altered or moved unless such alteration causes the building to become conforming.

\* Unless otherwise specified by the Zoning Board of Appeals the decision shall expire within 2 years, if the applicant fails to commence & substantially complete work related to the decision.

Second by Mr. Wansley. Chairperson Colberg-DiMarco asked for discussion.

Role Call:

Chairperson Colberg- DiMarco, aye.

Terrance Wansley, aye.

Tanmay Gajjar, aye.

Margo Miller, aye.

### MINUTES

Motion by Mrs. Miller to approve the Minutes of June 26, 2020 as read.

Second by Mr. Wansley. Chairperson Colberg-DiMarco asked for discussion.

Role Call:

Chairperson Colberg- DiMarco, aye.

Terrance Wansley, aye.

Tanmay Gajjar, aye.

Margo Miller, aye.

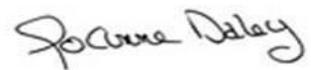
### NEW BUSINESS

There was no new business discussed this evening.

### ADJOURNMENT

On a Motion by M. Wansley and seconded by Mr. Gajjar to adjourn the meeting at 8:30 p.m. All were in favor, and the meeting was adjourned.

Respectfully submitted



JoAnne Daley  
Recording Secretary